

DE LA GARZA/LEAHY NUTRITION MONITORING ACT OF
1990

OCTOBER 2, 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture,
submitted the following

REPORT

[To accompany H.R. 1608]

The Committee on Agriculture, to whom was referred the bill (H.R. 1608), to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "de la Garza/Leahy Nutrition Monitoring Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are to—

- (1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;
- (2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;
- (3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition moni-

toring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(5) the term "local government" means a local general unit of government or local educational unit;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(8) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and

(9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

SEC. 101. ESTABLISHMENT OF THE COORDINATED PROGRAM.

(a) **IN GENERAL.**—There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) **IMPLEMENTATION RESPONSIBILITY.**—The Secretaries shall be responsible for the implementation of the coordinated program.

(c) **ESTABLISHMENT OF BOARD.**—To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined

appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) **ADMINISTRATOR.**—To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council

SEC. 102. FUNCTIONS OF THE SECRETARIES.

(a) **IN GENERAL.**—The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program, identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this Act to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such a report at least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) **BIENNIAL REPORT.**—The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

SEC. 103. DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM.

(a) **COMPREHENSIVE PLAN.**—The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

(b) **COMPONENTS OF PLAN.**—The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) **ADDITIONAL REQUIREMENTS OF PLAN.**—The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(d) **PUBLICATION OF PLAN.**—(1) **PROPOSED PLAN.**—Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) **FINAL PLAN.**—Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) **PROHIBITION ON CONSTRUING.**—Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

SEC. 104. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) **IN GENERAL.**—The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 103(a) and section 103(b);

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 103(c); and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) **EXISTING LAW NOT AFFECTED.**—Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SEC. 105. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the co-

ordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

SEC. 106. ANNUAL BUDGET SUBMISSION

(a) **ANNUAL REPORT.**—The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

- (1) the amounts spent on the coordinated program during the fiscal year most recently ended;
- (2) the amounts expected to be spent during the current fiscal year; and
- (3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) **EXISTING AUTHORITY NOT AFFECTED.**—Nothing in this title is intended to either—

- (1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or
- (2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

SEC. 201. STRUCTURE OF THE COUNCIL

(a) **IN GENERAL.**—(1) **ESTABLISHMENT.**—The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) **MEMBERSHIP.**—The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

- (i) one shall be appointed by the Speaker of the House of Representatives;
- (ii) one shall be appointed by the minority leader of the House of Representatives;
- (iii) one shall be appointed by the President pro tempore of the Senate; and
- (iv) one shall be appointed by the minority leader of the Senate.

(3) **EX OFFICIO MEMBERS.**—The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) **SELECTION CRITERIA.**—Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

- (1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;
- (2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or
- (3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(c) **PARTICULAR REPRESENTATION REQUIREMENTS.**—The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) **CHAIRPERSON.**—The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed 5

years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(e) **TERM OF OFFICE.**—The term of office of each of the voting members of the council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) **INITIAL APPOINTMENT.**—The initial members of the Council shall be appointed or designated not later than ninety days after the date of the enactment of this Act.

(g) **MEETINGS.**—The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) **LIMITATION ON FEDERAL EMPLOYMENT.**—Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) **EXECUTIVE SECRETARY.**—The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) **TERMINATION.**—The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

SEC. 202. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

SEC. 301. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) **REPORT.**—(1) **IN GENERAL.**—At least every five years the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) **BASIS OF GUIDELINES.**—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) **APPROVAL BY SECRETARIES.**—(1) **REVIEW.**—Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a 60 day review period.

(2) **BASIS OF REVIEW.**—(A) **IN GENERAL.**—During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) REVIEW OF COMMENTS.—After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) ANNOUNCEMENT.—Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) NOTIFICATION OF DISAPPROVAL.—If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) REVIEW OF DISAPPROVAL.—If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) LIMITATION ON DEFINITION OF GUIDANCE.—For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) DEFINITION OF IDENTIFIED POPULATION SUBGROUPS.—For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) EXISTING AUTHORITY NOT AFFECTED.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. NUTRITION TRAINING REPORT.

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

H.R. 1608—BRIEF EXPLANATION

The bill directs the Secretaries of Agriculture and Health and Human Services (the Secretaries) to jointly develop and implement a coordinated program, and a comprehensive plan to carry out the program, to assess the dietary and nutritional status of the people of the United States. The bill further establishes an Interagency Board for Nutrition Monitoring and Related Research to assist the Secretaries in the Program's development, administration, and implementation.

The bill directs the President to establish a 9-member National Nutrition Monitoring Advisory Council to assist in carrying out the purposes of the Act, provide scientific and technical advice on the development and implementation of the coordinated program and

comprehensive plan, and serve in an advisory capacity to the Secretaries.

The bill directs the Secretaries to jointly publish a report entitled "Dietary Guidelines for Americans" at least once every five years. Each such report shall contain nutritional and dietary information and guidelines for the general public. Federal agencies carrying out any Federal food, nutrition, or health program are required to promote such report. The bill establishes a procedure under which Federal agencies that propose to issue dietary guidance must submit the text of such guidance to the Secretaries for review.

PURPOSE AND NEED

A national nutrition monitoring system is essential in the development of food, nutrition, and health policies at all levels of government. The principal purpose of H.R. 1608 is to make more effective use of Federal and State expenditures for nutrition monitoring and to enhance the performance and benefits of current Federal nutrition monitoring research activities, to facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, to establish a central Federal focus for the coordination, management and direction of Federal nutrition monitoring activities, and to bring together public and private interests in a cooperative forum.

BACKGROUND

The United States Department of Agriculture (USDA) was first instructed to investigate the needs of human nutrition in 1893. Since that time, a number of surveys have been completed by USDA and the Department of Health, Education, and Welfare (HEW) (now the Department of Health and Human Services or HHS). While these surveys have provided valuable nutritional information, a need remains for a comprehensive, long-term program that will provide timely, integrated data on food, nutrition, and health-related issues.

As early as 1969, the White House Conference on Food, Nutrition and Health recommended the implementation of a comprehensive national nutrition monitoring system. In 1977, the Congress directed USDA and HEW to develop a proposal for a comprehensive nutritional status monitoring system. The 1978 proposal was developed into the implementation plan submitted to Congress in 1981. The need to improve and expand current Federal efforts in nutrition monitoring has recently been expressed by all sectors of society.

The lack of a comprehensive national nutrition monitoring system has hindered efforts by the American public and policy makers to fully understand and address the quality of the food supply, ensure that the nutritional needs of the population are met, and acquire a data base that will permit the planning and guiding of agriculture, nutrition and health research.

A legislative mandate is necessary if the United States is to sustain the progress that already has been made toward assuring the United States of a continuous and comprehensive nutrition moni-

toring system. H.R. 1608 will strengthen the developing cooperation between federal agencies and provide the mechanisms necessary to incorporate the needs of the groups dependent upon the data and services performed by a national nutrition monitoring system.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Section 1 provides that the bill may be cited as the "de la Garza/Leahy Nutrition Monitoring Act of 1990".

Section 2—Purposes

Section 2 enumerates the purposes of the bill. They are to:

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutrient and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

Section 3—Definitions

Section 3 defines "nutrition monitoring and related research" as the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(1) dietary, nutritional, and health status measurements;

- (2) food consumption measurements;
- (3) food composition measurements and nutrient data banks;
- (4) dietary knowledge and attitude measurements; and
- (5) food supply and demand determinations.

Section 3 defines "coordinated program" as the National Nutrition Monitoring and Related Research Program established by section 101(a) of the bill.

Section 3 defines, "Interagency Board for Nutrition Monitoring and Related Research" or "Board" as the Federal coordinating body established by section 101(c) of the bill.

Section 3 defines "comprehensive plan" as the comprehensive plan prepared under section 103 of the bill.

Section 3 defines "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" as the plan of that title submitted to Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178).

Section 3 defines "National Nutrition Monitoring Advisory Council" or "Council" as the advisory body established under section 201 of the bill.

Section 3 specifies that "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

Section 3 defines "local government" as a local general unit of government or local educational unit.

Section 3 defines "nutritional quality" as—

- (1) the appropriate levels of individual nutrients in the diet;
- (2) the appropriate levels between nutrients in the diet;
- (3) the bioavailability of nutrients such as absorption, digestion, and utilization; and
- (4) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH ESTABLISHMENT OF THE COORDINATED PROGRAM

Section 101—Establishment of the coordinated program

Section 101(a) establishes a ten-year coordinated program, named the National Nutrition Monitoring and Related Research Program, to carry out the purposes of the bill.

Section 101(b) provides that the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly (the "Secretaries") will be responsible for the implementation of the coordinated program.

Section 101(c) establishes an Interagency Board for Nutrition Monitoring and Related Research to assist in implementing the coordinated program, and provides that an Assistant Secretary in the Department of Agriculture (as designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (as designated by the Secretary of Health and Human Services) will be joint chairpersons. The remaining mem-

bership of the Board will consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board must meet no less often than once every three months for the two-year period following the date of the enactment of the bill, and when appropriate thereafter.

Section 101(d) authorizes the Secretaries to appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator must—

- (1) be an individual who is eminent in the field of nutrition monitoring and related areas, and be selected on the basis of the established record of expertise and distinguished service of such individual; and

- (2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

Section 102—Functions of the Secretaries

Section 102(a) directs the Secretaries with the advice of the Board to—

- (1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

- (2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

- (3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103 of the bill;

- (4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, to encourage and assist Federal and non-Federal entities, on an appropriate matching funds basis, in research activities (including research described in section 103(a)(3) of the bill) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

- (5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of the bill, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(9) of the bill);

- (6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

- (7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in section 102(a)(8)(B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in section 102(a)(8)(A) would have been published, and publish such a report at least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization may exceed the actual costs incurred by the coordinated program in providing the publications involved).

Section 102(b) directs the Secretaries to submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of the bill, a biennial report that will—

- (1) evaluate the progress of the coordinated program;
- (2) summarize the results of each component of the coordinated program as such components are developed under section 103 of the bill;
- (3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under section 102(a)(8) of the bill, and future priorities for nutrition monitoring and related research;
- (4) include in full the annual reports of the Council provided for in section 202 of the bill; and
- (5) include an executive summary of the report most recently published by the scientific body, as provided for in section 102(a)(8) of the bill.

Section 103—Development of the comprehensive plan for the national nutrition monitoring and related research program

Section 103(a) directs the Secretaries, with the advice of the Board, to prepare and implement a comprehensive plan for the coordinated program that is designed to—

- (1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition moni-

toring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low income populations and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the activities of the Federal agencies.

Section 103(b) requires that the comprehensive plan include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in items (1) and (2);

(4) incorporate in survey design military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in item (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

- (a) obtaining dietary and nutrition status data;
- (b) developing related data bases; and
- (c) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;
- (10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;
- (11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;
- (12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;
- (13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and
- (14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

Section 103(c) requires that the comprehensive plan—

- (1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;
- (2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and
- (3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

Section 103(d)(1) requires, within twelve months after the date of enactment of the bill, the Secretaries to publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

Section 103(d)(2) requires, within sixty days after the comment period under section 103(d)(1) of the bill expires, and after considering any comments received, the Secretaries to submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

Section 103(e) ensures that nothing in section 103 of the bill may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

- (1) the department or agency to which funds are appropriated; or
- (2) the obligations of such department or agency with respect to the use of such funds.

Section 104—Implementation of the comprehensive plan

Section 104(a) provides that the comprehensive plan is to be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) of the bill, and must be—

- (1) carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b) of the bill;
- (2) managed in accord with paragraphs (12) through (14) of section 103(b) of the bill;
- (3) carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c) of the bill; and
- (4) funded by appropriations made to such agencies for each fiscal year of the program.

Section 104(b) ensures that nothing in title I may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

Section 105—Scientific research and development in support of the coordinated program and comprehensive plan

Section 105 provides that the Secretaries must coordinate the conduct of, and may contract with, the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies, for such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of the bill.

Section 106—Annual budget submission

Section 106(a) directs the President, at the same time as the submission of the annual budget to the Congress, to submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report must detail, for each of the agencies that are allocated responsibilities under the coordinated program—

- (1) the amounts spent on the coordinated program during the fiscal year most recently ended;
- (2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

Section 106(b) ensures that nothing in title I of the bill is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

Section 201—Structure of the Council

Section 201(a)(1) directs the President to establish, within ninety days after the date of the enactment of the bill, a National Nutrition Monitoring Advisory Council. The Council will assist in carrying out the purposes of the bill, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

Section 201(a)(2) provides that the Council will consist of nine voting members, of whom five members shall be appointed by the President based upon recommendations from the Secretaries and four members will be appointed by Congress, one each by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President pro tempore of the Senate, and the minority leader of the Senate.

Section 201(a)(3) requires that the Council must also include the joint chairpersons of the Board as ex officio nonvoting members.

Section 201(b) specifies the qualifications of those appointed to the Council. Each person appointed to the Council must be selected solely on the basis of an established record of distinguished service and must be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

Section 201(c) requires that the Council membership include, at all times, at least two representatives from each of the three areas of specialization listed in section 201(b), that it have representatives from various geographic areas, the private sector, academia,

scientific and professional societies, agriculture, minority organizations, and public interest organizations, and that it include a State or local government employee with a specialized interest in nutrition monitoring.

Section 201(d) requires the Chairperson of the Council to be elected from and by the Council membership. The term of office of the Chairperson may not exceed five years. If a vacancy occurs in the Chairpersonship, the Council must elect a member to fill such vacancy.

Section 201(e) provides that the term of office of each of the voting members of the council is five years, except that of the five members first appointed by the President, two shall be appointed for a term of two years, two for terms of three years, and one for a term of four years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed will be appointed for the remainder of such term. No member will be eligible to serve continuously for more than two consecutive terms.

Section 201(f) requires that the initial members of the Council be appointed or designated not later than ninety days after the date of the enactment of the bill.

Section 201(g) requires the Council to meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council constitutes a quorum.

Section 201(h) provides that the appointed members of the Council may not be employed by the Federal Government but may be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

Section 201(i) provides that the Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d) of the bill) will serve as the Executive Secretary of the Council.

Section 201(j) requires the Council to terminate ten years after the final comprehensive plan is prepared under section 103 of the bill.

Section 202—Functions of the Council

Section 202 enumerates the functions of the Council. The Council will—

- (1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;
- (2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;
- (3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and
- (4) submit to the Secretaries annual reports that—
 - (a) contain the component specified in items (2) and (3);
 - and

(b) are included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b) of the bill.

TITLE III—DIETARY GUIDANCE

Section 301—Establishment of dietary guidelines

Section 301(a)(1) directs the Secretaries to publish a report entitled "Dietary Guidelines for Americans" by January 1, 1990, and at least every five years thereafter. The report will contain nutritional and dietary information and guidelines for the general public, and will be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

Section 301(a)(2) requires that the information and guidelines contained in each report required under section 301(a)(1) be based on the preponderance of the scientific and medical knowledge available at the time the report is prepared.

Section 301(b)(1) directs any Federal agency that proposes to issue any dietary guidance for general population or identified population subgroups, to submit the text of such guidance to the Secretaries sixty days before the publication of the notice of availability for comment required to be published in the Federal Register under section 301 of the bill. Such guidance includes all guidance intended for the use or guidance of the healthy population, including that intended to aid in the prevention of disease, but does not include therapeutic diets for the treatment of existing disease.

Section 301(b)(2)(A) requires that, during the sixty-day review period established in section 301(a)(1), the Secretaries review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on valid medical or new scientific knowledge. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it must be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency must follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency must—

- (1) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which explains the basis and purpose for the proposed dietary guidance;

- (2) provide in such notice for a public comment period of thirty days; and

- (3) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

Section 301(b)(2)(B) authorizes either Secretary to approve for dissemination a final version of the proposed dietary guidance and an explanation of the basis and purpose for the final guidance that ad-

dresses significant and substantive comments as determined by the proposing agency after review of comments received during the comment period.

Section 301(b)(2)(C) requires that any final dietary guidance to be disseminated under section 301(b)(2)(B) be announced in a notice published in the Federal Register before public dissemination. Such announcement must include an address where copies of the guidance may be obtained.

Section 301(b)(2)(D) provides that, if after the thirty-day period for comment as provided under section 301(b)(2)(A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries will notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in section 301(b)(2)(E).

Section 301(b)(2)(E) provides that if a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval, request the Secretaries to review such disapproval. The Secretaries must conduct such review within fifteen days after receiving such a request. If either Secretary approves such proposed dietary guidance pursuant to such review, such guidance may be issued by the Federal agency.

Section 301(b)(3) provides that for purposes of section 301(b), the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

Section 301(b)(4) provides that for purposes of section 301(b), the term "identified population subgroups" includes groups identified by age, sex, or race.

Section 301(c) states that section 301 does not limit—

- (1) the conduct or support of any scientific or medical research by any Federal agency;
- (2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or
- (3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

Section 302—Nutrition training report

Section 302 directs Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, to submit, within one year after the date of enactment of the bill, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

COMMITTEE CONSIDERATION

National nutrition monitoring priorities and a system to collect such data have been the subject of legislative activity in the U.S. Congress since 1977. Public Law 95-113, the Food and Agriculture

Act of 1977, directed USDA and HEW (now HHS) to submit a proposal for a comprehensive nutrition status monitoring system. The proposal, submitted to Congress in March 1978, detailed the type of data that was to be collected but failed to describe how the plan would be implemented.

The General Accounting Office (GAO) reviewed the proposal in June 1978 and reported several weaknesses in the proposal and recommended that the Administration develop an implementation plan. The proposal was returned to the agencies with a directive from the Congress to proceed with an implementation plan for a national nutrition monitoring system.

The implementation plan had not been received by the Congress by mid-1981. Joint hearings were held in June 1981, by the Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture and the Committee on Science and Technology's Subcommittee on Science, Research, and Technology to obtain from the Administration a commitment for submission of the implementation plan. The HHS-USDA Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System was received by the Congress in September 1981. One part of this plan was a calendar of the critical features of the implementation activities that were to be performed to allow the National Nutrition Monitoring System to be in place in 1987.

Joint oversight hearings were held by the two Committees in 1982 and 1983. The results of these hearings indicated that: the implementation plan focused primarily on the Nationwide Food Consumption Survey (NFCS) and the National Health and Nutrition Examination Survey (NHANES); the timeliness of data analysis and coordination had improved but remained inadequate; limited attention was given to the development of research methods and standards needed to enhance the effectiveness of nutrition monitoring; a survey design had not been developed to provide for an annual continuous monitoring system; and no budgetary data existed on current expenditures for nutrition monitoring activities, nor had projections been made for the future implementation of the system. While some progress was being made and both departments repeatedly made commitments to implement the nutrition monitoring system, some critical features of the Implementation Plan had not yet been completed, even though these steps were necessary before the coordinated system could begin in 1987.

PREVIOUS LEGISLATION

There have been several bills on this issue in earlier Congresses.

98th Congress

In the 98th Congress, H.R. 4684 failed to pass the House under suspension of the rules.

99th Congress

In the 99th Congress, H.R. 2436 passed the House, as amended, by a vote of 305 to 85 on June 26, 1986.

The Senate did not complete action on the bill by October 18, 1986, when the 99th Congress recessed.

100th Congress

In the 100th Congress, the Senate passed S. 1081 by voice vote. On October 12, 1988, the House of Representatives passed the amended version of the bill by a vote of 311-84 and then returned the bill to the Senate for further consideration. On October 19, 1988, the Senate passed S. 1081, as amended, by voice vote. The bill was not signed into law.

H.R. 1608—INTRODUCTION

On March 23, 1989, H.R. 1608 was introduced by Congressman de la Garza and referred to the House Committee on Agriculture.

HEARINGS

On September 21, 1989 the House Committee on Agriculture's Subcommittees on Department Operations, Research and Foreign Agriculture, and Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition and the Subcommittee on Science, Research and Technology of the Committee on Science, Space, and Technology held a joint hearing on nutrition monitoring legislation.

SUBCOMMITTEE CONSIDERATION

The Subcommittee on Department Operations, Research, and Foreign Agriculture met, pursuant to notice, on March 29, 1990. Mr. Brown offered an amendment to substitute for the text of H.R. 1608 text essentially similar to that of S. 253, as passed by the Senate. Mr. Brown also offered an amendment to change the short title of the bill to the "de la Garza/Leahy Nutrition Monitoring Act of 1990". By voice vote, the Subcommittee then ordered reported H.R. 1608, as amended, to the full Committee with the recommendation that it do pass.

FULL COMMITTEE CONSIDERATION

On July 18, 1990 the Committee on Agriculture met, pursuant to notice, to consider H.R. 1608. Without objection, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition was discharged from further consideration of H.R. 1608.

Five amendments were offered and accepted, en bloc, by Mr. Brown to respond to the concerns raised by the Administration in a letter to Mr. Brown from Catherine Betini (reprinted below).

The first amendment added language to section 102 to clarify the intent of the Committee that any competitive research grant program authorized by that subsection should be implemented when and if funds are provided or made available for this purpose.

The second amendment added a second paragraph to section 102 to require that the Secretaries report to Congress when data analyses do not justify a biennial report that this subsection requires.

The third amendment deleted the terminology "geopolitical" from section 103 since other phrases are used to set the limits of statistical reliability for the collection and analysis of data cover this need.

The fourth amendment added language to section 201 to require that the President's appointees to the National Nutrition Monitoring Advisory Council be made from among people recommended by the Secretaries of Agriculture and Health and Human Services.

The fifth and final amendment modified language in section 201 to broaden membership on the National Nutrition Advisory Council to include two representatives from food production and distribution in addition to two representatives from each of the other two fields of research (public health and nutrition monitoring) be on the nine-member advisory council at all times.

The amendments were adopted en bloc by voice vote.

By voice vote, the Committee ordered reported H.R. 1608, as amended, to the House in the presence of a quorum with the recommendation that it do pass.

ADMINISTRATION POSITION

At the time of the filing of this report, the Committee had not received a report from the U.S. Department of Agriculture concerning H.R. 1608, as amended, a bill entitled the "de la Garza/Leahy Nutrition Monitoring Act of 1990". However, the following letter was received by the Subcommittee on Department Operations, Research, and Foreign Agriculture providing concerns on the bill as introduced:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC.

Hon. GEORGE E. BROWN, Jr.,
Committee on Agriculture, Chairman, Subcommittee on Department Operations, Research and Foreign Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness to work with USDA and HHS to address our concerns with H.R. 1608, "The Nutrition Monitoring and Related Research Act of 1990".

The Administration shares your view of the importance of a well coordinated national nutrition monitoring system, and particularly of the need to speak with one voice in providing nutrition information to the American consumer. Thus, we support the major goals of H.R. 1608.

However, we have also had many concerns over this bill. Attached is a completed set of our proposed amendments to H.R. 1608. In short, we seek to ensure that: contracted reports are produced periodically, not continually; the Advisory Council includes a balanced set of members; the Secretaries of USDA and DHHS may make recommendations for Council appointments; definitions of "dietary guidance" are focused and practical; data collection efforts do not become restricted or defined by political jurisdictions; and new competitive grants programs receive separate appropriations and will not displace existing programs.

We do believe that all of the Administration's concerns can be alleviated if our proposed amendments are incorporated into the bill.

With the adoption of these changes the Administration will not oppose the enactment of H.R. 1608.

Sincerely,

CATHERINE BERTINI,
*Assistant Secretary for
Food and Consumer Services.*

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 were not received by the Committee prior to the filing of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 1608, as amended, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 1608, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.

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